

ORDER NO. 3403

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Tony Hammond

Competitive Product Prices
Global Plus 1C (MC2012-6)
Negotiated Service Agreement

Docket No. CP2016-215

ORDER APPROVING ADDITIONAL GLOBAL PLUS 1D
NEGOTIATED SERVICE AGREEMENT AND MODIFICATION AND
DENYING MOTION FOR TEMPORARY RELIEF

(Issued June 30, 2016)

I. INTRODUCTION

The Postal Service seeks to include an additional Global Plus 1C agreement (Agreement) within the Global Plus 1C product.¹ For the reasons discussed below, the Commission approves the Postal Service's request, as modified, but includes the Agreement as an additional Global Plus 1D negotiated service agreement.

¹ Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1C Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, June 17, 2016 (Notice).

II. BACKGROUND

On June 17, 2016, in accordance with 39 C.F.R. § 3015.5, the Postal Service filed its Notice, along with supporting documents. In the Notice, the Postal Service asserts that the Agreement is functionally equivalent to the baseline agreements for the Global Plus 1C product and requests that the Agreement be added to the existing Global Plus 1C product. Notice at 3. Among the supporting documents, the Postal Service included a copy of the Governors' Decision authorizing the Global Plus 1C product, the Agreement proposed to be added to the product, a certification of compliance with 39 U.S.C. § 3633(a), and financial workpapers. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Agreement, customer-identifying information, and related financial information remain under seal. *Id.* Attachment 4.

The Agreement is intended to take effect July 1, 2016. Notice at 3. It is set to expire June 30, 2017. *See id.*

On June 20, 2016, the Commission provided public notice of the Postal Service's filing; established a docket to consider the filing's consistency with applicable statutory policies and Commission regulations; appointed a Public Representative; and provided an opportunity to comment.²

On June 29, 2016, the Postal Service filed a notice of modification to the agreement,³ and a motion for temporary relief concerning the modification's effective date.⁴ The modification adds an additional article, allowing limited permit linking to the

² See Docket No. CP2016-215, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, June 20, 2016.

³ Notice of the United States Postal Service of Filing Modification to Global Plus 1C Negotiated Service Agreement, June 29, 2016 (Notice of Modification). The modification is an attachment to the Notice of Modification (Modification). The Postal Service filed a redacted version of the Modification under seal as Attachment 1, and a non-public version of the modification under seal, incorporating its Application for Non-Public Treatment filed in conjunction with the Notice.

⁴ Motion for Temporary Relief Concerning Notice of the United States Postal Service of Filing Modification to Global Plus 1C Negotiated Service Agreement, June 29, 2016 (Motion for Temporary Relief).

agreement until the sooner of August 31, 2016, or the day before a separate Global Plus agreement with the owner of a Non-Mailer Permit goes into effect. Notice of Modification, Attachment 1 at 1.

III. COMMENTS

The Public Representative filed comments on June 27, 2016.⁵ No other comments were received. Based upon a review of the Postal Service's filing, including the information filed under seal with the Commission, the Public Representative concludes that the Agreement meets the requirements of 39 U.S.C. § 3633 because the accompanying financial model shows that the negotiated prices should generate sufficient revenue to cover costs. See PR Comments at 2. He agrees with the Postal Service that the Agreement is functionally equivalent to the Global Plus 1C baseline agreements. *Id.* at 3.

IV. COMMISSION ANALYSIS

The Commission's responsibilities in this docket are to ensure that the Agreement and Modification: (1) are functionally equivalent to the Global Plus 1D baseline agreement; and (2) satisfy the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3015.5 and 3015.7).

Functional equivalence. The Postal Service contends that its filing demonstrates that the Agreement is functionally equivalent to the baseline agreements and requests that the Agreement be included within the Global Plus 1C product. Notice at 3. In Order No. 3395, the Commission added the Global Plus 1D product to the competitive product list and designated a baseline agreement for assessing the functional equivalence of other agreements proposed for inclusion within the Global Plus 1D

⁵ Public Representative Comments on Request of the United States Postal Service to Add a Functionally Equivalent Global Plus 1C Negotiated Service Agreements, June 27, 2016 (PR Comments).

product.⁶ The Commission concluded that the removal of Global Bulk Economy, Global Direct , International Business Reply Mail, and Global Express Guaranteed supported the conclusion that the agreement in that docket had cost and market characteristics distinct from those of the Global Plus 1C baseline agreements. Order No. 3395 at 5. Thus, the Commission found that the Agreement was not functionally equivalent to the Global Plus 1C baseline agreements. *Id.*

Because of the Commission's decision in Order No. 3395, in this docket the Commission reviews whether the Agreement, as modified, shares similar cost and market characteristics with the Global Plus 1D baseline agreement; meets the pricing formula and falls within the classification established in the Governors' Decision authorizing this product; and comports with 39 U.S.C. § 3633 and applicable Commission rules. It also considers the Public Representative's comments.

The Commission concludes that the Agreement, as modified, is substantially similar to the baseline agreement and that the differences between them do not fundamentally alter either the service the Postal Service will provide under the Agreement or the structure of the Agreement. The Commission therefore finds that the Agreement may be included within the Global Plus 1D product.

Cost considerations. The Commission reviews each competitive product to ensure that it covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by a product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, a product that covers its attributable costs is likely to comply with 39 U.S.C. § 3633(a).

⁶ Docket No. CP2016-193, Order Adding Global Plus 1D to the Competitive Product List and Approval of Designation as Baseline Agreement, June 29, 2016 (Order No. 3395).

The Commission has reviewed the Postal Service's filing, including the Modification, supporting financial analyses provided under seal, and the Public Representative's comments. Based on this review, the Commission finds that the Agreement, as modified, should cover its attributable costs. Consequently, the Commission finds that the addition of the Agreement, as modified, to the Global Plus 1D product should allow the product to continue to comply with 39 U.S.C. § 3633(a)(2). Because it finds that the addition of the Agreement, as modified, to the Global Plus 1D product should allow the product to cover its attributable costs, the Commission finds that the addition of the Agreement, as modified, to the product should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the addition of the Agreement, as modified, to the Global Plus 1D product is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3).

Accordingly, a preliminary review of the Agreement, as modified, indicates it is consistent with section 3633(a). The Commission will review the cost coverage of the Agreement, as modified, the cost coverage of the Global Plus 1D product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

Other considerations. The Agreement is intended to take effect July 1, 2016. Notice at 3. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement. It is set to expire June 30, 2017. See *id.* If the Agreement is terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in this docket.

Article 12 of the Agreement allows the Postal Service to extend the Agreement for an additional month if the customer has met its annualized minimum commitment. *Id.* Attachment 1 at 4. If the Postal Service extends the Agreement under Article 12, the

Postal Service shall provide notice to the Commission at least one week before the Agreement is scheduled to expire.⁷

V. MOTION FOR TEMPORARY RELIEF

The Postal Service's Motion for Temporary Relief seeks its Modification to go into effect on July 1, 2016, pending the Modification's approval. Motion for Temporary Relief at 1. The Commission approves the Modification in this Order. The Motion for Temporary Relief is, accordingly, denied as moot.

VI. ORDERING PARAGRAPHS

It is ordered:

1. The Agreement, as modified, filed in Docket No. CP2016-215 is included within the Global Plus 1D (CP2016-193) product. The revision to the Mail Classification Schedule appears below the signature of this Order and is effective immediately.
2. The Commission denies, as moot, the Postal Service's Motion for Temporary Relief, filed June 29, 2016.
3. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement, as modified.

⁷ See Docket No. CP2009-38, Order No. 1523, Order Granting Motion for Temporary Relief and Providing Guidance Regarding Future Motions for Temporary Relief, November 1, 2012, at 2.

4. The Postal Service shall promptly file notice of the Agreement's, as modified, termination with the Commission in this docket if the Agreement is terminated prior to the scheduled expiration date.

By the Commission.

Ruth Ann Abrams
Acting Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part B—Competitive Products

2500 Negotiated Service Agreements

2510 Outbound International

2510.6 Global Plus Contracts

2510.6.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Global Plus 1D
Baseline Reference
Docket No. CP2016-193
PRC Order No. 3395, June 29, 2016
Included Agreements

CP2016-215, expires June 30, 2017
